



TOM ROMERO
CHIEF OF POLICE

Town of Bernalillo

"The City of Coronado"

POLICE DEPARTMENT

Mayor
Jack Torres

Councilors
RONNIE A. SISNEROS
MARIAN A. JARAMILLO
DALE R. PRAIRIE
TINA DOMINGUEZ

1/27/2017

Darlene Montoya
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NM ATTORNEY
GENERAL'S OFFICE

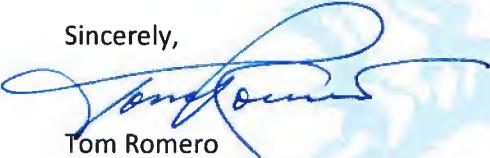
Dear Ms. Montoya:

Pursuant to letters dated December 19, 2016 and January 20, 2017 requiring the submission of policies and procedures regarding officer involved shootings and other use of force incidents, enclosed find copies of the following:

ADM.01.06 Code of Conduct
OPR.02.22 Use of Force
OPR.02.23 Firearms and Defensive Weapons

The dates are specified on the policy. Officers receive periodic training on policies when hired and throughout the year as well as provided an electronic copy of all policies.

Sincerely,


Tom Romero
Chief of Police
Bernalillo Police Department

BERNALILLO POLICE DEPARTMENT	ADMINISTRATION
SUBJECT: <i>Code of Conduct</i>	NUMBER: <i>ADM.01.06</i>
EFFECTIVE DATE: <i>December 23, 2013</i>	REVIEW DATE: <i>December 16, 2013: by George Perez, Town Attorney</i>
AMENDS/SUPERSEDES: <i>Amends May 14, 2013 Policy</i>	APPROVED: <i>Julian Gonzales, Chief of Police</i>
NMMLEPSC STANDARDS:	NMSA:

I. PURPOSE

Employees of Department shall conduct themselves in a manner that reflects highly on the department and does not bring discredit to the Department or themselves. This policy provides guidelines and specificity to the standards of conduct that should be followed.

II. POLICY

It is the policy of the Department to set forth guidelines as to the standard of conduct that Department employees are held to.

III. VIOLATION OF RULES

Employees shall not violate or assist in violation of rules, regulations, directives or orders of the Department, whether stated in this Department manual or elsewhere.

(Category I, II, III)

III. CONFORMANCE TO LAWS

Employees shall obey laws of the United States and of any state and local jurisdiction in which the employees are present. Any employee who is a suspect in or is arrested for any criminal offense, drug related offense or major traffic offense shall report such to the Chief of Police as soon as practical and in all cases prior to returning to duty.

(Category I, II, III)

IV. UNSATISFACTORY PERFORMANCE

Employees shall maintain sufficient competency to do their duties and assume the responsibilities of their positions. Employees shall do their duties in a way that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be shown by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to do assigned tasks; the failure to conform to work standards established for the employee's rank or position; the failure to take appropriate action on the occasion of crime, disorder, or other condition deserving police attention; or abuse of leave.

The following also will be considered unsatisfactory performance: consistently poor performance evaluations or a consistent written record of infractions of rules, regulations, directives, or orders of the Department.

(Category I, II, III)

V. INSUBORDINATION AND/OR INTEMPERATE BEHAVIOR

Employees shall obey, in a timely manner, any lawful directive of a supervisor. This will include directives relayed from a supervisor by another employee of the same or lesser rank.

(Category I, II, III)

VI. CONFLICTING OR ILLEGAL DIRECTIVES

- A. Employees who are given an otherwise proper directive that conflicts a previous directive, rule or regulation shall respectfully inform the supervisor issuing the directive, if said person does not alter or retract it, the directive shall stand. Under these circumstances, the responsibility for the conflict shall be upon the supervisor. Employees shall obey the conflicting directive and shall not be held responsible for disobedience of the directive, rule or regulation previously issued. (Category II)
- B. Employees shall not obey any directive that they know or should know would require them to commit any illegal act. If in doubt about the legality of a directive, employees shall request the issuing supervisor to clarify the directive or shall request to confer with higher authority.

(Category II, III)

VII. TRUTHFULNESS

Employees shall truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the Department that may be asked of them.

(Category III)

VIII. PHYSICAL OR PSYCHOLOGICAL EXAMINATIONS

- A. Upon recommendation of Chief of Police and Human Resources, the employee will submit and undergo either a physical or psychological examination, or both, to determine the fitness of the employee to do the required duties of the position.
- B. When complying with the requirements of this section, the employee shall authorize the attending physician or psychologist to release information regarding the employee's conditions and ability to do required duties to the Human Resources Department.

(Category III)

IX. USE OF POLYGRAPH, MEDICAL EXAMINATION, PHOTOGRAPHS AND LINEUPS

- A. When ordered by the Chief of Police, employees shall submit to polygraph examinations by a licensed polygraph examiner. The employee will be advised of the reasons for ordering the polygraph examination. The questions incident to the polygraph examination will be specifically directed and narrowly related to a particular internal administrative investigation being conducted by the Department.

B. The Chief of Police may also order additional medical, ballistics, chemical or other tests, photographs or line-ups related to a particular internal administrative investigation being conducted by the Department.

(Category III)

X. FINANCIAL DISCLOSURE

Employees shall not be required to show information regarding their financial status except as required by Law.

(Category III)

XI. PERSONNEL FILES

A. No document containing comments adverse to an officer shall be entered into his personnel file unless the officer has read and signed the document. When an officer refuses to sign a document containing comments adverse to him, the document may be entered into an officer's personnel file if:

1. The officer's refusal to sign is noted on the document by the Supervisor;
2. The notation regarding the officer's refusal to sign the document is witnessed by a third party.

B. An officer may file a written response to any document containing adverse comments entered into his personnel file and the response shall be filed with the Human Resources Director within thirty days after the document was entered in the officer's personnel file. The officer's written response shall be attached to the document.

XII. CONSTITUTIONAL RIGHTS, NOTIFICATION

When any officer is under administrative investigation and a determination is made to commence a criminal investigation, he shall be immediately notified of the investigation and shall be afforded all the protections set forth in the bill of rights of the United States and New Mexico constitutions.

XIII. POLITICAL ACTIVITY

An officer shall not be subjected to any retaliation by the Department from engaging in any political activity when the officer is off duty, except as otherwise required by law.

(Category III)

XIV. EXERCISE OF RIGHTS

An officer shall not be subjected to any retaliation by the Town of Bernalillo due to the officer's lawful exercise of his rights under the Peace Officer's Employer-Employee Relations Act (29-14-1 to 29-14-11 NMSA 1978).

(Category III)

XV. COMPLAINTS AGAINST SUPERVISORS AND THE CHIEF OF POLICE

Complaints against supervisors shall be made by a member of the Department in writing directly to the Chief of Police with supporting facts and circumstances. Any complaint against

the Chief of Police shall be made in writing to the Town Administrator with supporting facts and circumstances after notifying the Chief of Police of the complaint against him.
(Category II)

XVI. UNBECOMING CONDUCT

Employees shall conduct themselves at all time, both on and off duty, in such a manner that reflects favorably on the Department. Conduct unbecoming an employee is that which brings the Department into disrepute or reflects discredit upon the employee as a member of the Department. Conduct unbecoming is also that which impairs the operation or efficiency of the Department or employee.

(Category III)

XVII. NEGLECT OF DUTY

Employees shall not engage in any activities or personal business that would cause them to neglect or be inattentive to duty.

(Category I)

XVIII. SLEEPING ON DUTY

Employees shall remain awake while on duty. If unable to remain awake, employees shall report to their supervisor who shall decide the proper course of action.

(Category I, II, III)

XIX. REPORTING FOR DUTY

- A. Employees shall report for duty at the time and place required and shall be physically and mentally fit to do their duties. They shall be properly equipped for the performance of duty so that they may immediately assume their duties. Judicial subpoenas and court notifications is an order to report for duty.
- B. Upon reporting for duty, employees are responsible for information on the memo board as well as other sources of Departmental information relating to their job assignment.

(Category I, II, III)

XX. UNIFORM AND PERSONAL APPEARANCE

Employees shall wear uniforms or their clothing according to established Departmental procedures and shall maintain a neat, well-groomed appearance, while on duty, court appearance or training functions.

(Category I)

XXI. CARRYING AND USE OF WEAPONS

- A. Commissioned officers shall carry firearms and other weapons according to law and Departmental procedures.
- B. Officers shall not handle weapons in a careless or imprudent manner. Officers shall utilize weapons according to law and Department procedures.
- C. Any officer who discharges a firearm while performing any police function,

- accidentally or intentionally shall make a written report to the Chief, giving the details of the incident. (Exception – Training functions unless injury occurs)
- D. Weapons will be concealed when not in uniform.
(Category II, III)

XXII. ILLNESS OR INJURY REPORTS

- A. Employees shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive the Department about the condition of their health.
- B. Employees, when reporting off sick for any reason other than an emergency, shall notify an ON-DUTY SUPERVISOR at least two hours before the employee's scheduled hours of duty. Notice to a supervisor must be verbal. E-mail and/or text messages are not acceptable.
- C. Any employee who becomes ill or injured while on duty shall, if possible, report the facts to their supervisor before absenting themselves from duty.
(Category II, III)

XXIII. PAYMENTS FOR LINE-OF-DUTY INJURY

Employees shall notify the Chief of Police, Human Resources Director and Town Treasurer regarding any settlement for line of duty injuries.
(Category II, III)

XXIV. MEALS

Employees are allowed meals/breaks as established by Department procedures. Police employees who are compensated for meals/breaks are subject to immediate call during such. Meal/breaks will be taken as near the middle of shift as possible.
(Category I)

XXV. SEARCHING OF PRISONERS OR SUSPECTS

People in custody or suspects shall be searched for weapons for the officer's and prisoners/suspects safety, according to Department procedures.
(Category I, II)

XXVI. TREATMENT OF PERSONS IN CUSTODY

Employees shall not mistreat nor permit mistreatment of persons who are in their custody. Employees shall handle such persons according to law and Department policy.
(Category I, II, III)

XXVII. USE OF FORCE

Employees shall not use more force in any situation than is necessary under the circumstances. Employees shall use force according to law and Departmental procedures.
(Category II, III)

XXVIII. TRANSPORTATION OF PRISONERS

When transporting people in custody, they shall be handcuffed with their hands behind their backs unless the health or other physical condition of the person does not permit it. Arrestees should be seat belted in the rear seat. The starting and ending vehicle mileage and location will be given to the dispatcher upon transporting any prisoner.

(Category I, II, III)

XXIX. PASSENGERS IN POLICE VEHICLES

No person other than members of the Department or person involved in police action or service shall be permitted to ride in Departmental vehicles except according to Departmental Procedures. Only the Chief of Police or Lieutenant may approve a Ride Along as set forth by Department procedures.

(Category I, II)

XXX. COURTESY

Employees shall be courteous to the public. Employees shall be tactful in the performance of their duties, control their tempers, exercise the utmost patience and discretion and not engage in argumentative discussions. In the performance of their duties, employees shall not use coarse, violent, profane or insolent language or gestures, and not express any prejudice concerning race, religion, politics, national origin, life style or similar personal characteristics.

(Category I, II)

XXXI. RESPONDING TO REQUESTS FOR ASSISTANCE

When any person or other agency applies for assistance or advice, or makes complaints or reports, either by telephone, in writing or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon consistent with established Departmental procedures.

(Category I, II)

XXXII. DEPARTMENTAL REPORTS

Employees shall submit all necessary report on time and according to established Departmental procedures. Reports submitted by employees shall be truthful and complete, and no employee shall knowingly enter or cause to be entered any inaccurate, false or improper information.

(Category I, II, III)

XXXIII. RADIO DISCIPLINE

Employees shall operate the police radio in accordance with Departmental procedures.

(Category I)

XXXIV. ON CALL AVAILABILITY

All officers are subject to being asked to work at any time on any duty shift.

(Category II)

XXXV. PROCESSING OF PROPERTY AND EVIDENCE

Employees shall not convert to their use, manufacture, conceal, falsify, destroy, remove, tamper with or withhold any property, photographs, or other evidence concerning an investigation or other police action; or otherwise process such property or evidence except according to Departmental procedures.

(Category II, III)

XXXVI. TELEPHONE NUMBER(S) AND ADDRESS

A current address and emergency contact telephone number(s) will be given to the Chief's Administrative Assistant and the Human Resources Department.

(Category I)

XXXVII. CONDUCT TOWARD OTHER EMPLOYEES

Employees shall not utter any unwelcomed, disrespectful, insolent or abusive language toward any other employee.

(Category I, II, III)

XXXVIII. CITIZEN COMPLAINTS

Employees shall properly notify their immediate supervisor of any complaint made by a citizen against any employee or the Department. Employees may attempt to resolve the complaint, but shall never attempt to dissuade any citizen from lodging a complaint against any employee or the Department. Employees shall follow established Departmental procedures for processing complaints.

(Category I, II)

XXXIX. EMPLOYMENT OUTSIDE THE DEPARTMENT

A. Employees may engage in outside employment subject to the following limitations:

1. Employees shall submit a written request for outside employment to the Chief of Police whose approval must be granted before engaging in such employment.
2. Such employment shall not interfere with the employee's employment with the Department.

(Category I, II)

XL. USE OF TOBACCO

The use of all tobacco is prohibited in any police facilities, vehicle or while in contact with the public. The use of tobacco is permitted during meals/breaks in areas where smoking is normally allowed.

(Category I, II)

XLI. ALCOHOLIC BEVERAGES AND DRUGS IN POLICE FACILITIES

Employees shall not store or bring into any police facility or vehicle alcoholic beverages, controlled substances, narcotics or hallucinogens except those items held incident to police duties.

(Category I, II, III)

XLII. POSSESSION AND USE OF DRUGS

Employees shall not possess or use any controlled substances unless prescribed as treatment for that employee by properly authorized practitioners. Employees shall notify their supervisor when their performance may be impaired by using medications (prescription or nonprescription).

(Category III)

XLIII. USE OF ALCOHOL ON DUTY OR IN UNIFORM

- A. Employees shall not consume intoxicating beverages while on duty except while acting under proper or specific orders from a supervisor. Employees in uniform shall not consume intoxicating beverages at any time.
- B. Employees shall not appear for scheduled duty while under the influence of intoxicants to any degree (zero tolerance) or with an odor of intoxicants on their breath.

(Category I, II, III)

XLIV. GIFTS, GRATUITIES, BRIBES, OR REWARDS

Employees shall not solicit or accept from any person, business, or organization any gift including money, tangible or intangible personal property, food, beverage, loan, promise, service, or entertainment) for the benefit of the employees or the Department, if it may be implied that the person, business, or organization:

- A. Seeks to influence the action of an official nature or seeks to affect the performance or nonperformance of an official duty, or;
- B. Has an interest that may be substantially affected, directly or indirectly, by the performance or nonperformance of an official duty. Any unsolicited gifts will be forwarded to the Chief of Police, with a written explanation.

(Category I, II, III)

XLV. ENDORSEMENTS AND REFERRALS

Employees shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service or commercial service (such as an attorney, towing service, bondsman,etc.). In the case of a towing service, when such service is necessary and the person needing the service is unable or unwilling to obtain it or request assistance, employees shall proceed according to established Departmental procedures.

(Category I, II)

XLVI. PUBLIC STATEMENTS AND APPEARANCES

- A. Employees shall not criticize or ridicule the Department, its policies, or other employees by speech, writing or other expression, where such speech, writing or other expression is defamatory, obscene, unlawful, and undermines the effectiveness of that Department, interferes with the maintenance of discipline, or is made with reckless

- disregard for truth or falsity.
- B. Employees shall not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge investigative information, or any other matters of the Department while representing the Department without prior approval of the Chief of Police.
- (Category I, II, III)

XLVII. ABUSE OF POSITION

- A. Use of Official Position or Identification. Employees shall not use their official position, official identifications cards or badges:
1. For personal or financial gain.
 2. For obtaining privileges not otherwise available to them except in the performance of their duty; or
 3. For avoiding consequences of illegal acts.
- B. Employees shall not lend to another person their identification cards or badges or permit them to be photographed or reproduced without the approval of the Chief of Police.
- C. Use of Name, Photograph or Title: Employees shall not authorize the use of their names, photographs, or official titles that identify them as employees, concerning testimonials or advertisement of any commodity or commercial enterprise, without the approval of the Chief of Police.
- D. Employees shall not use their official position, official identification or badges for sexual favors.
- (Category I, II, III)

XLVIII. DISSEMINATION OF INFORMATION

Employees shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, according to established Department procedures. Employees may remove or copy official records or reports according to Departmental procedures and in performance of duty. Employees shall not divulge the identity of persons giving confidential information except as authorized by proper authority.

(Category I, II, III)

XLIX. ASSOCIATIONS

Employees shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are persons under criminal investigation or indictment, or who have a reputation in the community or the Department for present involvement in felonious or criminal behavior, except as necessary to the performance of official duties, or where unavoidable because of other personal relationships of the employee.

(Category II, III)

L. INTERVENTION

- A. Employees shall not interfere with cases being handled by other employees of the Department or by any governmental agency unless:
 - 1. Ordered to intervene by a supervisor, or
 - 2. When the intervening employee believes beyond a reasonable doubt that manifest injustice would result from failure to take immediate action.
- B. Employees shall not undertake any investigation or other official actions not part of their regular duties without obtaining permission from their supervisor unless the exigencies of the situation require immediate police action.
(Category II, III)

L.I. **ABUSE OF PROCESS**

Employees shall not knowingly make false accusations of a criminal nature or traffic charge.
(Category III)

L.II. **RESTRICTIONS WHILE ON SUSPENSION**

Officers shall not exercise police authority while under suspension; nor shall the uniform be worn while the officer is under suspension.
(Category III)

L.III. **PERSONAL FAMILY DISPUTES**

Employees shall not attempt to exact police discipline or make arrests in their quarrels or in those between their families or in disputes arising between them and their neighbors, except under such circumstances as would justify them in using self-defense or to prevent injury to another or when a serious offense has been committed.

(Category II, III)

L.IV. **SEXUAL HARASSMENT PROHIBITED**

Sexual harassment by any employee to any other employee is prohibited. The Supreme Court has defined illegal sexual harassment to include "unwelcome sexual advances, request for sexual favors, and other verbal conduct of a sexual nature," even when there is no tangible effect on pay, promotion, or continued employment.

(Category III)

L.V. **UNAUTHORIZED EXPENDITURES**

An employee shall not incur liability chargeable to the Department or Town without proper authorization. Responsibility for payment of improper or authorized debts shall rest with the employee incurring the debt, disciplinary action notwithstanding.

(Category II, III)

L.VI. **REFERRALS TO TOWN OFFICIALS**

No employee shall refer any citizen to the Mayor, or Town Council, concerning police related matters without approval of the Chief of Police.

(Category I, II)

LVII. CONTACTING TOWN OFFICIALS

No employee shall contact the Mayor, or Town Council on police related matters except through the chain of command. Any employee contacted by the Mayor, Town Council or Town Clerk-Treasurer on other matters shall assist that person immediately and contact the Chief of Police as soon as possible with all details of such matters.

(Category I, II)

LVIII. IDENTIFICATION

Officers shall furnish their name and police identification to any person requesting that information when they are on duty or while acting in an official capacity for the Town, unless the withholding of information is necessary for the performance of police duties or is authorized by proper authority.

(Category I, II)

LIX. BUSINESS CARDS

Employees may utilize business or personal cards that have been approved by the Chief of the Police.

(Category I)

LX. USE OF DEPARTMENT EQUIPMENT

Employees shall use Department equipment only for its intended purpose, according to Department procedures, and shall not abuse, damage or negligently lose Department equipment. All Department equipment issued to employees shall be maintained in proper order. Any damaged or missing equipment shall be reported in writing.

(Category I, II)

LXI. OPERATING DEPARTMENT VEHICLES

Employees shall operate Department vehicles in a careful and prudent manner and shall obey all Department procedures about such operation. Loss or suspension of any driving privileges shall be reported to the Department immediately.

A. The town-owned vehicle will be used to commute from one's official station to home and back. Permitted use includes a 25 mile radius from the Town.

B. Any exceptions made by the Chief of Police must be documented in writing.

(Category I, II, III)

LXII. COURT APPEARANCE

Attendance at any court or hearing is an official duty assignment. Permission to omit this duty must be obtained from the prosecuting attorney or other court official.

(Category I, II, III)

LXIII. TESTIFYING FOR THE DEFENDANT

Any employee subpoenaed to testify for the defense in any trial or hearing, or against the Town or Department, shall notify the Chief of Police upon receipt of the subpoena.

(Category I, II)

LXIV. CIVIL CASES

Employees, while representing themselves as members of the Department shall not testify in civil cases unless legally summoned or subpoenaed. Employees shall not serve civil processes while on duty or in uniform, except those initiated by the Town.

(Category I, II)

LXV. CIVIL SUITS FILED

- A. Filed by the Employee: Employees shall not initiate civil action arising out of their official duties without first notifying the Chief of Police in writing.
- B. Filed against the Employee: Any employee who has a damage suit filed against him, because of an act rendered by him in the line of duty, shall immediately notify the Chief of Police and furnish a copy of the complaint with an accurate and complete report about the incident in question so that the Chief of Police may notify the Town Administrator and Town Attorney of the pending suit and relevant facts.

(Category I, II, III)

LXVI. INTIMATE OR ROMANTIC RELATIONSHIPS

- A. An intimate or romantic relationship is a relationship where parties engage in sexual relations with one another or when their intent is to seek the romantic affection of the other. A close friendship is not considered an intimate or romantic relationship.
- B. Intimate or romantic relationships between an employee and any other employee assigned to supervise or mentor the performance of that employee, e.g. direct supervisors, special event supervisors, FTO's, trainers, etc. are prohibited.
- C. If a prohibited or romantic relationship develops, one or both employees shall:
 1. End the relationship.
 2. Not engage in certain special events or functions.
 3. Be transferred to another position based on Department need, or
 4. Resign or be terminated.
- D. Any intimate or romantic relationship which adversely affects the operations or efficiency of the Department shall be prohibited.

(Category I, II, III)

LXVII. INFRACTIONS AND PUNISHMENTS

- A. Except for gross breaches of discipline, supervisors shall attempt to begin employee discipline with the least punitive measures. If these do not work, then increasingly more severe measures may be required. While this process may take some time, it is important that each employee be dealt with justly, and in a manner which clearly

- indicates that positive, constructive measures to change behavior or performance preceded the imposition of more negative sanctions.
- B. Officers are reminded that all appeals are governed by law, as specified under the Law Enforcement Officers' "Bill of Rights" and "Garrity". Appeals are also governed under Town Rules and Regulations.
- C. Unacceptable conduct is divided into three categories according to severity of misbehavior.
1. Category I
Examples:
 - a. Excessive absences, tardiness.
 - b. Abuse of duty time (too much time away from established duties; too much time for personal business).
 - c. Abusive or obscene language.
 - d. Inadequate or unsatisfactory job performance.
 - e. Disruptive behavior.

Category I offenses are of minor severity yet require correction in the interest of maintaining a productive and well managed department. Category I offenses normally result, in the first offense, in informal measures such as counseling, or perhaps by oral reprimand/formal counseling.

Two Category I offenses in one year results in a written reprimand or suspension of up to five days. A third instance in one year shall provide grounds for longer suspension or dismissal.
 2. Category II
Examples:
 - a. Failures to follow supervisor's instructions, perform assigned work, or otherwise comply with policy.
 - b. Violating safety rules without a threat to life.
 - c. Unauthorized time away from work assignments without permission during duty hours.
 - d. Failure to report to work without proper notice to a supervisor.
 - e. Unauthorized use or misuse of department property.
 - f. Refusal to work overtime.

Category II offenses include more severe acts and misbehavior. Category II offenses normally result, in the first instance, in an issuance of a written reprimand. A subsequent infraction within two years shall result in suspension, a demotion or dismissal.
 3. Category III
Examples:
 - a. Absence in excess of three days without notice to a superior.
 - b. Use of alcohol or unlawful possession or use of a controlled substance while on duty.

- c. Reporting to work under the influence or when ability is impaired by alcohol or the unlawful use of controlled substances.
- d. Insubordination or serious breach of discipline.
- e. Falsification of any reports such as, but not limited to, vouchers, official reports, time records, leave records, or knowingly making any false official statement.
- f. Willfully or negligently damaging or destroying Town property.
- g. Theft or unauthorized removal of departmental records or Town or employee property.
- h. Gambling on any Property of the Town of Bernalillo.
- i. Acts of physical violence or fighting (except official police actions).
- j. Violating safety rules where there is threat to life.
- k. Sleeping on duty.
- l. Participating in any kind of work slowdown or sit down or any other concerted interference with police department operations.
- m. Unauthorized possession or use of firearms, dangerous weapons, or explosives.
- n. Threatening or coercing employees or supervisors.
- o. Criminal convictions for acts of conduct occurring on or off the job which are plainly related to job performance and consequently to continue the employee in the assigned position would constitute negligence regarding the agency's duties to the public.
- p. Failure to take physical or mental examinations as required. The Chief of Police may require mental or physical examinations of a member or employee by a designated psychiatrist, psychologist, or physician when, in the Chief's estimation, it is in the best interest of the member, employee, or the department.
- q. Using public office for private gain.
- r. Engaging in criminal conduct on or off the job.
- s. Engaging in dishonest or immoral conduct which undermines the effectiveness of the agency's activities or employee performance, whether on or off the job.
- t. Willful disobedience of a lawful command of a supervisor.
- u. Disclosure of confidential information to any person except those who may be entitled to such information.
- v. Taking any action which will impair the efficiency or reputation of the department, its members, or employees.
- w. Acceptance of any bribe, gift, token, money, or other things of value intended as an inducement to perform or refrain from performing any official act, or any action of extortion or other means of obtaining money or anything of value through his position.
- x. Manifesting cowardice, feigning illness, or otherwise attempting to shirk official duty.

- y. Involvement in any compromise between persons accused of crime and the person or persons who may have suffered from criminal acts with the purpose of allowing the accused to escape punishment.
- z. Failure to answer questions specifically directed and related to official duties or job fitness.
 - aa. The use of unnecessary force during an arrest/custody procedure.
 - bb. Deviation from established procedures in the disposition of summons or arrest cases.

Category III offenses include acts of such severity as to merit suspension or dismissal at a single occurrence as determined by the Chief with approval of the Town Administrator.

D. Probationary Employees

Probationary employees shall be dismissed, suspended, or otherwise disciplined according to the foregoing. The only difference is that a probationary employee has no right of appeal.

1. In the case of a dismissed probationary employee, the official record will merely indicate that the person was dismissed during probationary employment.

E. Sexual Harassment and Other Discrimination

Employees found to have engaged in discrimination on the basis of race, color, religion, national origin, political affiliation, handicap, age, or sex (including sexual harassment), or other protected class may be counseled or disciplined with a Category I, II, or III Offense, depending upon the specific facts and circumstances surrounding the incident.

1. Sexual harassment is defined in Town Rules and Regulations, Article VI Rights Protected, 2 and Department Rules and Regulations.

F. Discipline Checklist

The following checklist, from the Management Kit of the American Management Association, should be used by supervisors to help analyze the employee misbehavior and offer correction.

1. Have I secured the necessary facts?
 - a. Did the employee have an opportunity to tell fully his side of the story?
 - b. Did I check with the employee's immediate supervisor?
 - c. Did I investigate all other sources of information?
 - d. Did I hold my interview privately in order to avoid embarrassing the interested employee or employees?
 - e. Did I exert every possible effort to verify the information?
 - f. Did I check the employee's personnel folder to look at his past record?
2. Have I considered all the facts in deciding upon the disciplinary measure?

- a. Have I found out what has been done in similar cases in my department?
 - b. Have I found out what has been done in similar cases in other departments?
 - c. Have I shown any discrimination toward an individual or group?
 - d. Have I let personalities affect my decision?
 - e. Does the measure fit the violation?
 - f. Will the measure prevent a recurrence?
 - g. Will the measure maintain morale?
 - h. Will the measure encourage the employee's initiative?
 - i. Will the measure create a desire on the part of the employee to do what is right?
 - j. Have I checked this decision with my immediate supervisor?
 - k. Did I follow current Town Policy?
3. Have I administered the corrective measure in the proper manner?
- a. Did I consider whether it should be done individually or collectively?
 - b. Am I prepared to explain to the employee why the action is necessary?
 - (1) The effect of the violation on the department, fellow employees, and himself.
 - (2) To help him/her improve his efficiency and also that of the department.
 - c. Am I prepared to tell him/her how he/she can prevent a similar offense in the future?
 - d. Am I prepared to deal with any resentment he/she might show?
 - e. Have I filled out the proper paperwork to be signed by the employee?
4. Have I made the necessary follow-up?
- a. Has the measure had the desired effect on the employee?
 - Have I done everything possible to overcome any resentment?
 - b. Is the employee convinced that the action was for his best interest?
 - c. Have I endeavored to compliment him/her on his/her good work?
 - d. Has the action had the desired effects on other employees in the department?

BERNALILLO POLICE DEPARTMENT	OPERATIONS
SUBJECT: <i>Use of Force</i>	NUMBER: <i>OPR.02.22</i>
EFFECTIVE DATE: <i>May 14, 2013</i>	REVIEW DATE: <i>March 11, 2013: by George Perez, Town Attorney</i>
AMENDS/SUPERSEDES: <i>New</i>	APPROVED: <i>Julian Gonzales, Chief of Police</i>
NMMLEPSC STANDARDS:	NMSA:

I. PURPOSE

The use of force by a police officer is an extremely sensitive issue and requires careful study and understanding by every officer. This is especially true since the definitions of the use of force by police are based on the determination of reasonableness under the circumstances. Although the careful use of force is authorized by law, the use of unnecessary or unreasonable force is strictly prohibited and will not be tolerated. While clear boundaries of reasonableness can be defined for certain police situations, others must be interpreted for the particular set of circumstances involved.

DEFINITIONS:

- A. Deadly Force - Force that is intended or known by the person using the force to cause, or in the manner of its use or its intended use, is capable of causing death or serious bodily injury.
- B. Reasonable Belief - A belief that would be held by a reasonable and prudent law enforcement officer in the same circumstances as the acting person.
- C. Reasonable Force - Use of the reasonable amount of force needed to achieve control over an incident or person.
- D. Serious Bodily Injury - Injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of a bodily member or organ.

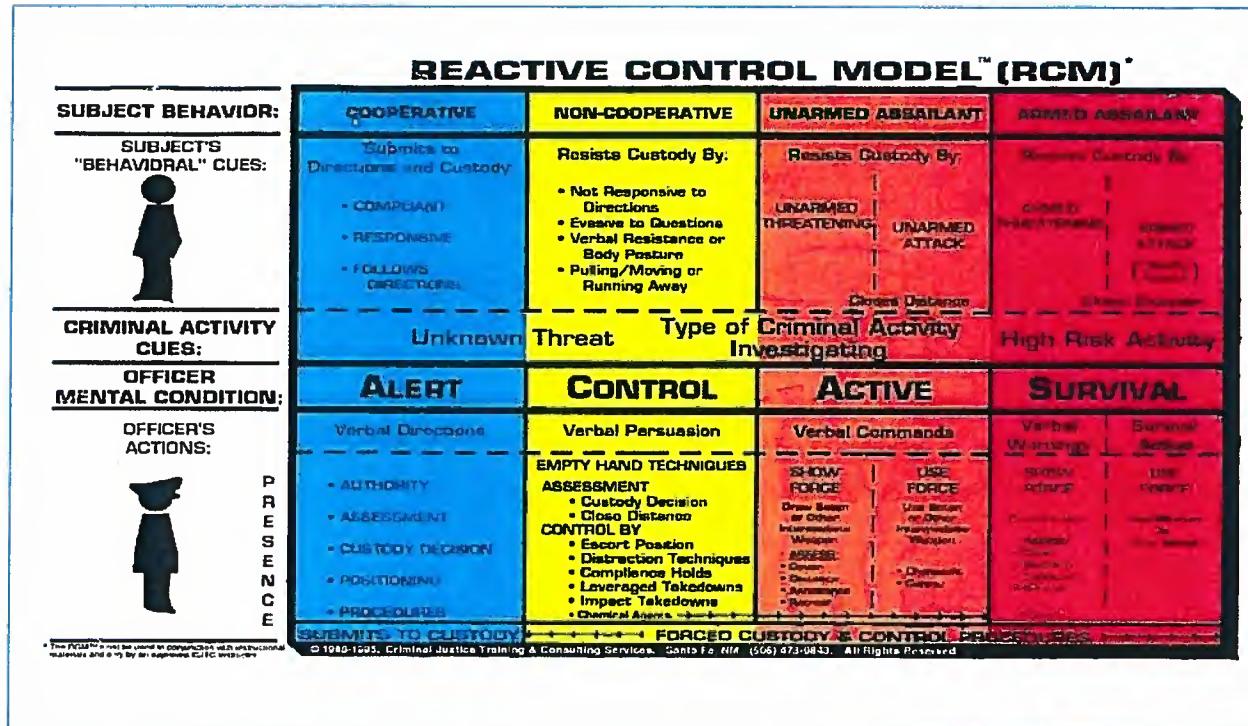
II. POLICY

It is the policy of the Department to provide each officer with policy guidance and direction with respect to the use of force in carrying out their duties.

III. GENERAL PROCEDURE

- A. Reasonable force may be used by an officer in the performance of duties, when:
 - 1. In self-defense or defense of another against unlawful violence to a person or property.
 - 2. Necessary to preserve the peace, to prevent the commission of an offense or to prevent suicide or self-inflicted injury.

3. Making lawful arrests and searches, overcoming resistance to such arrests and searches, and preventing escapes from custody.
 4. Preventing or interrupting an intrusion on or interference with the lawful possession of property.
- B. An officer may use reasonable force to overcome resistance to the lawful performance of duties, even though there is no immediate or apparent danger calling for self-defense. However, the officer must be acting within the scope of official authority. Every reasonable opportunity must be given to the person being arrested to comply. Force should be used only after all other means have failed to produce compliance.
- C. Before the application of reasonable force, officers should identify themselves as police officers and state their purpose to the offender and others present. This identification is not necessary if the officer reasonably believes his purpose and identity are already known or conditions exist which render it unfeasible to identify.
- D. There is no specific rule fitting all cases as to how much force and means may be used. Each case must be decided in the light of its own facts and circumstances. **Under no circumstances will the force used be greater than necessary and in no instance will deadly force be used except as stated in the Deadly Force section of this chapter.**
- E. Officers will use only the force necessary to accomplish lawful objectives. Officers must exhaust every reasonable means of employing the least amount of force appropriate to the situation.
- F. The Reactive Control Model (RCM) is taught in the New Mexico Law Enforcement Academy and expected to be used by officers of this Department to determine the appropriate course of action when interacting with a person(s) in a situation which may require the use of force. (See RCM Continuum).



IV. REPORTING PROCEDURES

- A. A written use of force report will be submitted whenever an employee:
1. discharges a firearm, for other than training or recreational purposes;
 2. takes an action that results in, or is alleged to have resulted in, injury or death of another person;
 3. applies force through the use of lethal or less-lethal weapons; or,
 4. uses any equipment or item applying force.

In any incident where a use of force is used, officer(s) shall document the incident in an incident report and Use of Force report. The report will include a detailed description of the events leading to the necessity for the use of force; the amount and type of force used; the nature and extent of injuries, if any, and treatment rendered; identity of individuals involved and other pertinent information.

The exception to this is when the only force used was a firm grip/or use of handcuffs.

B. Non-injury Use of Force

The use of Defensive Tactics frequently achieves the desired results without injury to any parties. However, documentation of such incidents is required. This documentation will normally be sufficiently covered in an incident report prepared as a result of the event. Also, a Use of Force report shall be prepared. This account will include all circumstances that led to the use of a tactic and its actual

- use. The approving supervisor will ensure that the events are presented fully, in a clear and accurate manner.
- C. Personal Injury Incidents
- Photographs of the injuries will be taken, if possible, and included with any reports. This applies to both officers and/or suspects.
- D. Medical Aid to Injured Parties
- When a person is injured because of an officer's use of force, the officer shall notify his immediate supervisor and seek medical treatment for the injured person.
- E. Routing of Paperwork
- Anytime an incident involves the use of force, the reports will be reviewed by a supervisor within 24 hours and then routed through the chain of command. When a supervisor believes there may have been an inappropriate use of force, he/she will provide the Lieutenant with a written explanation as to why the use of force was inappropriate.

If the supervisor is involved in the use of force incident, then the Lieutenant will be required to conduct the Use of Force Review. Any reports generated by a supervisor detailing their personal actions in an incident shall be submitted for approval through the chain of command.

V. LESS-LETHAL FORCE

A. Defensive Tactics

In order to provide members of this department with information, the Defensive Tactics Coordinator (if available) will schedule periodic training sessions which enable officers to learn and exercise acceptable methods of defensive tactics. Officers may use defensive tactics that they have been trained in and are qualified to use. Other law enforcement agencies may also provide this information and/or provide training.

B. Police ASP Baton

1. The Department issued ASP baton may be used if a suspect has escalated to using threatening statements and/or gestures and begins to close the distance on the officer or another person in a threatening manner as if to batter them.
2. The ASP baton is not designed to be used as a club or bludgeon. Strikes should target areas of the body which may result in compliance by the suspect or allow the officer to gain control.
3. Strikes to parts of the body (head, neck, spine, groin, or clavicle) capable of inflicting death or serious bodily injury shall be avoided unless justified by the guidelines of the Deadly Force section of this chapter.

C. OC Spray

OC Spray (pepper spray) plays a distinct and viable role in the continuum of force options and gives the individual officer an alternative to hard empty hand techniques and the use of an impact weapon, ASP.

1. Use of OC Spray

- a. The OC spray may be used on a suspect who is non-cooperative and is resisting the efforts to control him/her by, but not necessarily limited to the following actions:
 1. Suspect not responsive to directions.
 2. Verbal resistance or body posture.
 3. Pulling/moving/running away.
 4. Aggressive movements and an escalation of resistive force.
- b. The OC spray may be used if a suspect has escalated to using threatening statements and begins to close distance on the officer or another person in a manner as if to batter them.
- c. The use of OC spray is target specific and should result in the officer's ability to gain control of the suspect.
- d. The target area will consist of the face, specifically the eyes.
- e. Keep the application to the absolute minimum required to effectively control the subject.
- f. The use of OC spray shall not be used to threaten to elicit information nor will it be used on people who are handcuffed, secured, and properly in custody.

2. Decontamination

- a. Decontamination begins after the suspect has been restrained with handcuffs or by other means and the suspect's resistance has ceased.
- b. Decontamination should begin in a reasonable time frame and officer safety concerns should be taken into consideration.
- c. Expose suspect to fresh air and flush affected area with water.
- d. Call medical personnel (EMS) to perform a cursory check of the suspect, to remove any contact lenses, if necessary, and to continue flushing the suspect with water.
- e. Once the suspect has been transported to the detention facility, the on-duty detention facility personnel shall be notified that the suspect has been sprayed with OC.
- f. Under no circumstances will any creams, salves, or oils be applied to the affected area.

3. Reporting

- a. As with any use of force or application of force, a written report will be submitted detailing the use of the OC spray, decontamination procedures and the events leading to the use of the OC spray.
- b. Anytime the OC spray is used, the approving supervisor will be

responsible for ensuring that a copy of the report is forwarded up the chain of command.

- D. The Electronic Control Device (ECD) previously referred to as a Taser, is a Conducted Energy Weapon; an electronic incapacitation device. It is a defensive weapon, which is listed in the force continuum the same as O. C. spray and soft empty hands. The ECD functions in two ways;
 - 1. It uses compressed nitrogen to project two probes a maximum of 21 feet. An electrical signal is then sent to the probes, via small wires, which disrupts the body's ability to communicate messages from the brain to the muscles and causes motor skill dysfunction.
 - 2. Acts as a touch stun system when brought into immediate contact with a person's body.

The decision to use the ECD is based on the same criteria the Officer uses when selecting to employ O. C. spray, or a baton. The decision must be made dependent on the actions of the subject(s) or the threat facing the Officer(s), and the totality of the circumstances surrounding the incident. In any event, the use of the ECD must be reasonable and necessary.

The ECD is not meant to be used in deadly force situations. The ECD must not be used without a firearm back up in those situations where there is a substantial threat towards the Officer(s) or others present.

The ECD provides a force option in which the officer does not have to get dangerously close to a threat before deploying the tool. Using the ECD may greatly reduce the need for other types of physical force by the Officer(s) resulting in a serious or potentially deadly injury to the offender, Officer, or others present.

Any use of an electronic incapacitation device contrary to the direction of this policy can result in the revocation of the Officer's right to use such product and may subject the Officer to disciplinary action.

VI. DEADLY FORCE

A. Authorized Use of Deadly Force

- 1. Deadly force may be used only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury.
- 2. An officer may use deadly force: when the suspect is intent on immediately endangering human life or immediately inflicting serious bodily injury unless apprehended without

- delay. The officer must reasonably believe that the suspect is armed or has the means to inflict death or serious bodily injury.
- a. Ability (Weapon)
 - b. Opportunity (Distance)
 - c. Immediate jeopardy (Officer's life or someone else's life is in immediate jeopardy)
 - d. Fleeing felons (must meet the above requirements)
3. Prohibited Uses of Deadly Force:
 - a. Officers shall not unreasonably or unnecessarily endanger themselves or the public in applying deadly force pursuant to this policy or state law.
 - b. An officer shall not rely solely on third party reports as a basis for use of Deadly Force, without firsthand knowledge of an alleged offense.
 - c. An officer shall not use deadly force in situations that would not be in accordance with New Mexico State Statutes.
 - d. In an attempt to apprehend fleeing felons or escapees whom are not placing the officer or another person in immediate danger of death or immediate serious bodily injury.
 4. All officers shall be provided with and be familiar with all provisions of the New Mexico State Statutes and this directive governing the legal use of Deadly Force.

Warning Shots are Prohibited

VII. ADMINISTRATIVE LEAVE

- A. Immediately following an officer's involvement in an incident involving serious injury or death. The officer will be automatically placed on administrative leave with pay for a minimum of three (3) work days. A review by the Chief of Police will be made to consider whether a change in duty status is appropriate depending on the facts of the case. If a change of duty status is appropriate, the Chief of Police and Town Administrator in consultation with the HR Director will determine the proper duty status.
- B. Assignment to administrative leave is non-disciplinary with no loss of pay or benefits. This duty is designed to:
 1. address the personal and emotional needs of the officer involved in the use of deadly force and,
 2. ensure the community that the facts surrounding the case are fully and professionally investigated.
- C. An officer on administrative leave shall insure his/her availability to investigators until the investigation has been concluded.

- D. Officers on administrative leave are authorized to carry an approved firearm, unless otherwise directed by the Chief of Police. Officers shall not work off-duty police related jobs and should not enforce laws and make arrests except in emergency situations.
- E. An officer whose action results in a deadly force incident will be required to counsel with a Department appointed counselor. The counselor must make written notification that the officer is fit for duty before the officer returns to duty.

VIII. INCIDENTS OF FORCE REVIEW

- A. The Department will make available and reserve the right to require counseling for officers who had involvement in a deadly force incident.
- B. Referrals to the Chief of Police will be automatic and take place immediately anytime there is a firearm discharge (except at the firing range or in the event of putting down an animal).
- C. The Chief of Police will be responsible for ensuring that all use of force data from all reports are regularly and accurately compiled, analyzed and reviewed.
- D. The Administrative Staff will:
 1. Analyze use of force data on a quarterly, cumulative basis to detect trends;
 2. Have compiled in writing and review use of force incident by officer and type of force used; and
 3. Review the data for the purpose of identifying and acting upon their implications for policy and training designed to ensure that officers are using only appropriate types and amounts of force.

IX. TRAINING

- A. Annual training will be conducted to instruct officers in the Use-Of-Force policy. This instruction will be documented.
- B. Copies of this policy will be issued to each officer, before being authorized to carry a weapon, and will be updated as needed. This issuance and instruction will be documented.

BERNALILLO POLICE DEPARTMENT	OPERATIONS
SUBJECT: <i>Firearms/Defensive Weapons</i>	NUMBER: <i>OPR.02.23</i>
EFFECTIVE DATE: <i>May 14, 2013</i>	REVIEW DATE: <i>March 11, 2013: by George Perez, Town Attorney</i>
AMENDS/SUPERSEDES: <i>New</i>	APPROVED: <i>Julian Gonzales, Chief of Police</i>
NMMLEPSC STANDARDS:	NMSA:

I. PURPOSE

The purpose of this directive is to establish policies and procedures regarding training, approved weapons, and related equipment. Officers are encouraged not to routinely switch back and forth between different handguns and types of handguns. During a shooting incident, it is imperative that an officer be able to instinctively operate an assigned or authorized weapon proficiently. Routinely switching weapons puts an officer at a distinct disadvantage which could be fatal.

A police officer's firearm is perhaps the most commonly perceived symbol of his authority and role. In the interest of public safety and police professionalism, the department sets herein high standards of performance for its personnel who use weapons. The department's policy ensures that members are properly trained not only in the use of appropriate firearms, but also in their maintenance. In addition, the department believes that off-duty use of weapons, plus the selection and wearing of on-and off-duty holsters, must follow standards enforced by supervisors and the department firearms instructors.

II. POLICY

It is the policy of the Department that no officer shall be permitted to carry a weapon until proper training has been received and the officer has qualified with the weapon. Each officer will be provided with a copy of the Department's Use of Force policy prior to being allowed to carry a weapon. All officers, while on duty must have a department authorized handgun immediately accessible. Uniformed officers must carry authorized handguns while on duty. Non-uniformed off duty officers driving a department vehicle will be armed except for officers on temporary limited duty status and fitting certain criteria.

III. PRIMARY HANDGUN

- A. The Department shall inspect and approve each commissioned officers handgun.
 - 1. Officers may carry a department issued firearm. A list of department issued or authorized handguns are maintained by the lead firearms instructor.
 - 2. Officers may also carry personally owned weapons providing they are authorized in writing by the lead firearms instructor and the Chief of Police.
 - 3. Animal Control Officers are not authorized to carry any type of handguns.
- B. Any modifications must be approved by the lead firearms instructor and Chief of

Police.

- C. All department issued firearms will be inspected twice a year by a firearms instructor. Unsafe weapons will be removed from service until repaired.
- D. All weapons issued will be recorded with the weapon type, serial number, date of issue and officer it was issued to. This also pertains to personally owned weapons. This information will be maintained by the lead firearms instructor and Lieutenant.

IV. OFF-DUTY HANDGUN

- A. Officers may carry their Department issued or personally owned firearm while off duty. Officers who carry a weapon other than a department issued weapon are required to purchase their own ammunition. If an off duty weapon is carried in plain view the officer shall display his badge of office.

Exceptions:

Off-duty officers shall not carry a firearm into an establishment whose primary business is licensed to dispense alcoholic beverages.

- 1. Off-duty weapons shall be carried safely.
- B. Officers may carry a firearm other than their issued duty weapon, off-duty, if it meets the following guidelines:
 - 1. Firearms must be authorized by the lead firearms instructor and Chief of Police.
 - 2. Weapon will be at least a five or six shot semiautomatic or revolver in a minimum caliber of .32, but not to exceed .45 caliber.
 - 3. CONCEALABILITY is one of the reasons for going to a different type of off-duty weapon.
- C. Holsters, extra magazines or speed loaders are not required for qualification or when the weapon is being carried off-duty. The weapon must be carried in a manner where it is safe and secure.
- D. Officers wanting to change weapons must qualify with the new weapon only at regular qualifications or if time permits, when scheduled by the lead firearms instructor or a firearms instructor.
- E. All firearms will be inspected and approved by the lead firearms instructor or a firearms instructor.

V. BACK-UP HANDGUN

Officers are authorized to carry back-up firearms which meet the same guidelines as stated in Off-Duty Weapons listed above under section B. Back-up firearms are to be used as a last resort weapon when the primary weapon has been exhausted or is inaccessible.

VI. SHOTGUNS/RIFLES

- A. Shotgun
 - 1. Officers may carry a department issued or personally owned shotgun upon passing the shotgun qualification course. The lead firearms instructor will maintain a list of authorized or approved shotguns.
 - 2. The qualification course shall include:
 - a. Knowing how to load and unload it combat style.
 - b. Firing at least 10 shots, some from different positions.
- B. Patrol Rifle
 - 1. Officers may carry a department issued or personally owned Patrol Rifle equipped with approved magazines and accessories. A list of department issued or authorized Patrol Rifles is maintained by the lead firearms instructor. Officers will not modify or add to the Patrol Rifle unless modifications are approved by the lead firearms instructor and the Chief of Police.
 - 2. Prior to carrying a Patrol rifle, officers will pass a training program with the rifle and will qualify with the rifle. The qualification course will be a course recognized by the NM Law Enforcement Academy e.g. NMSP Rifle Course.
 - 3. After the initial training course and qualification, officers will be required to qualify twice a year during day and night shoots.
 - 4. Ammunition shall be only department issued ammunition and officers will carry only 28 rounds in a thirty round magazine, and 18 rounds in a twenty round magazine.
 - 5. At the range, Patrol Rifles shall remain unloaded with the magazine removed and the chamber shall be left empty until instructed by the Range Master or a firearms instructor to load or check the weapon.
 - 6. Patrol rifles will not be handled on the range except on command of the Range Master or a firearms instructor.

C. Classroom Instruction

All police department personnel shall, if duties require carrying firearms, receive classroom familiarization with their firearms before obtaining permission from the firearms instructor to enter the firing range.

VII. RESPONSE TEAM (SWAT)

A Response Team will be assembled as needed by the authority of the Chief of Police or his designee.

- A. The on duty Department supervisor when deemed necessary will request the response of an available SWAT team.

VIII. AMMUNITION

A. Duty Weapon

1. Only approved ammunition will be carried.
2. Officers shall inspect all rounds prior to loading their weapon and make periodic inspections for damaged rounds.
3. Department issued ammunition will be used and replaced on an annual basis.
4. Ammunition used for firearms training and qualifications will be provided by the Department except for calibers different from what is on the list of approved or authorized firearms.

B. Off-Duty/Back-up Weapon

1. The department may supply ammunition if it is available and financially feasible, with approval of the Chief of Police. Otherwise, Officers must supply their own ammunition which must be approved by the lead firearms instructor.
2. No armor piercing, incendiary, Glazier safety slug, or remanufactured ammunition will be authorized.
3. Ammunition must be replaced at least annually.

C. Other Authorized Departmental Issued Weapons

1. Officers will only carry department issued shotgun rounds in the department issued shotgun.
2. Officers will only carry department issued rifle rounds in the department issued rifles.
3. Officers authorized to carry other department issued firearms will carry it loaded with department issued ammunition.

IX. HANDLING OF FIREARMS

- A. The authority to bear firearms carries with it an obligation and responsibility to exercise discipline, restraint, and good judgment in their use. The officer must keep in mind that when firing a weapon, there always exists a danger to innocent parties.
- B. As a general rule, when in presence of the public, a handgun should be drawn only when the officer or his/her superior has sufficient cause to expect it will be used and the officer is preparing for its use. Shoulder weapons (long arms) may be displayed as their use may require.
- C. If possible, some warning should be given before engaging in the use of deadly force.
- D. A handgun, rifle or shotgun muzzle shall not be held in direct contact with an individual, except as a last resort or tactically feasible.
- E. Firearms shall be secured as soon as practicable after determining that the use of deadly force is not necessary.
- F. An officer's weapon may be removed from his holster to be placed in a secure area or during a weapons inspection, training, or cleaning.

X. DISCHARGE OF FIREARMS

- A. Officers may discharge a firearm under the following circumstances:

1. In defensive of a human life, including the officer's life, or in defense of any person in immediate danger or serious bodily injury.

2. To safely destroy an animal that represents a threat to public safety; as a humanitarian measure where the animal is seriously injured and other alternatives have been exhausted;
 3. During range practice or competitive sporting events;
- B. Firing a weapon should be for the intent of rendering the person at whom the weapon is discharged incapable of continuing the activity prompting the officer to shoot.
- C. Warning shots are prohibited.
- D. Firing a weapon at, or from a moving vehicle, should not be considered except as the ultimate measure of self-defense or defense of another when the suspect is using deadly force. Under no circumstances will an officer fire at a moving motor vehicle with the intent of rendering the motor vehicle incapable of being operated. However, an officer may, under extreme circumstances, discharge his weapon at a suspect inside a moving motor vehicle with intent to stop the suspect's action(s).
- E. Firing at a fleeing person will not be considered justified unless the officer reasonably believes that the person he/she is considering shooting poses an imminent threat to human life.
- F. When an officer discharges a firearm accidentally or in the line of duty, except at firearms qualifications, his immediate supervisor will be notified as soon as possible, but never later than the conclusion of his tour-of-duty.
- G. When a duty firearm is discharged, on or off duty, with the exception of training, the officer shall file a written Use of Force Report of the incident through established channels to the Chief of Police. If an officer is unable to write the report, the duty supervisor will ensure the necessary reports are properly prepared and forwarded.
- H. The lead firearms instructor shall review reports of discharge of firearms with the assistance of the supervisor in charge. The Lieutenant will investigate the facts and will submit a report of his findings and recommendations. The report will be forwarded to the Chief of Police.

XI. CARE OF WEAPONS

- A. All officers are responsible for maintaining assigned and approved weapons and keeping them clean.
- B. Willful or negligent damage to a department approved weapon by an employee shall not be tolerated. Incorrect or negligent use of a weapon is prohibited.
- C. All officers shall, by every practical means, secure all weapons from unauthorized access. Department approved firearms shall not be left in unsecured vehicles while on-duty or off-duty or when the vehicle is unattended for extended periods of time. Weapons shall be removed from an officer's assigned vehicle and secured during his regular days off and extended vacations. Department vehicles which are garaged may have the weapons left inside the vehicle. Furthermore, officers will assure that weapons are not left unsecured or unattended during workout or personal times while at the police station.
- D. Officers are responsible for inspecting their approved weapons for safety and maintenance needs and ensuring that the weapon is safe and functional at all times. Weapons shall be subject to random and monthly inspections by a supervisor for proper lubrication and cleanliness.
- E. All repairs on department issued weapons shall be performed by the Department lead firearms instructor (based on training for a particular model), or a certified gun smith

as coordinated through the lead firearms instructor. The lead firearms instructor will issue another weapon for during the repair period.

XII. FIREARMS QUALIFICATIONS

- A. Firearms qualification courses are mandatory for all officers, and courses will be scheduled as needed. The Lieutenant or lead firearms instructor will post the dates and times for officers to qualify:

Firearms qualifications will include a minimum of two (2) pistol qualifications and one (1) shotgun qualification for all officers. There will be one (1) off-duty qualification for officers authorized to carry off - duty weapons other than their duty weapon. If available, firearms instructors may schedule additional qualifications. There will be two (2) qualifications for the rifle which will include both day and night time courses. If it is necessary for an officer to miss a qualification, approval is required by the respective supervisor and Lieutenant. Officers who have missed a scheduled qualification during the year will be scheduled for makeup shoot ASAP.

- B. Every commissioned officer must maintain a minimum shooting score as stipulated by the New Mexico Law Enforcement Academy. Officers must shoot approved courses with their issued and/or approved personal duty weapons and approved off-duty weapons.
- C. If an officer is unable to qualify, completion of a remedial training course will be required. This remedial training will be conducted in lieu of normally scheduled assigned duties until the officer successfully completes remedial training and qualifications. If after a reasonable time, the firearms instructor and the Lieutenant determine that an officer cannot qualify, a detailed report shall be submitted to the Chief of Police. The officer shall be placed on Administrative Leave pending a determination of the officer's employment status.
- D. If an officer fails to qualify with the back-up handgun or off-duty handgun, the officer shall not carry that weapon until qualification requirements are met. Notification of the officers' immediate supervisor will be made.
- E. Because this training is mandatory, any unauthorized absence of commissioned officers at this training is subject to disciplinary action.
- F. Certain circumstances may excuse an officer from scheduled qualifications (illness, injury, pregnancy). The officer is required to qualify immediately upon returning to full status capacity.
- G. All firearms training will be conducted by certified firearm instructors.
- H. All training and proficiency demonstrations will be documented and maintained at the Department. The lead firearms instructor will inspect all firearms records once every four months.

XIII. FIRING RANGE PROCEDURES

It is the officer's responsibility to conduct themselves in a mature manner and use common sense in safe handling procedures with handguns, shotguns, and rifles. The following range rules and firearms safety standards will be followed by everyone engaged in firearms training. Infractions of, or disregard for, firearms safety will be dealt with promptly and firmly by the firearm's staff and may be subject to disciplinary action:

- A. Safety Rules and Regulations

1. Each time a weapon is picked up for any purpose, point the weapon in a safe direction, open the action and make a visual and physical inspection to ensure that it is unloaded. Never trust your memory, and consider every weapon as loaded until you have personally proven otherwise. Never turn in or accept a weapon unless the action is open.
2. Do not leave a loaded weapon unattended. Un-holstered weapons will have actions open at all times when not being fired. Shotguns will have the action bar to the rear, port side up and rifles will have the bolt locked to the rear, ejection port up with safety selector switch in the safe position.
 - a. Semiautomatics - When not holstered, a semiautomatic will be carried with the magazine removed, the slide locked to the rear, the muzzle pointed down, with the strong hand, holding it by the grip.
 - b. Shotgun/Rifle – When transporting a shotgun/rifle, the weapon will be carried muzzle down with the action open and the safety on.
3. Do not place your finger within the trigger guard until you are pointing the weapon at the target. This is especially important when drawing the weapon from the holster.
4. Do not load until the command is given. NEVER anticipate a command. All range commands will be given by the firearms instructor.
5. The muzzles of all weapons will be pointed downrange at all times when not holstered, but at no time will point over the top of the backstop.
6. Do not handle a weapon on the firing line while there is someone downrange. Dry firing is allowed only on the firing line under the supervision of a firearms instructor.
7. No conversations are allowed between participants while on the firing line.
8. If you drop a weapon accidentally, report this fact to a firearms instructor who will immediately inspect your weapon to ensure that it will function.
9. Holstered weapons will be snapped in at all times except while in the process of being drawn.
10. The actions of all weapons will be open when being carried to and from the range, or the weapon will be holstered.
11. Never bend over to retrieve dropped ammunition during loading or unloading procedures. You will be permitted to do so after the line has been declared safe. You will also be instructed when to pick up magazines or other dropped equipment.
12. Do not remove any live ammunition from the range. All unfired rounds will be returned to an instructor after the day's firing has been completed.
13. Do not fire at a target that is turned to the side (edge) position.
14. Anytime you observe an unsafe act that endangers someone, you have the responsibility to shout, "Cease Fire", raise your non-shooting hand and report the incident to a firearms instructor.
15. Any injury sustained during firearms training will be reported immediately to an instructor.
16. For your protection, it is mandatory that all officers wear ear protection while engaged in live fire on all ranges. Eye protection will be worn when shooting on the range.
17. When you are instructed to step up to the firing line, remain there unless told to do otherwise.
18. Staple guns should always be handled carefully as the staples will be under

- spring tension. Do not put your hands behind the target cardboard when stapling targets.
19. Keep talking to a minimum while at the firing ranges. Exercise courtesy while others are shooting or engaged in classes.
 20. Do not turn around on the firing line or look behind you unless instructed to do so.
 21. When arriving or leaving the range weapons will be secured in a holster.
 22. Any loading/unloading or checking the condition of a weapon will be done either on the firing line or at a side safety berm as directed.
 23. During drawing and/or holstering sequences the trigger finger shall be in register (along with the side or frame of the weapon).
 24. When at "Ready Gun" position, the trigger finger shall be in register.
 25. Horseplay, practical jokes, or other such action is prohibited.
 26. The Range Master is the ultimate authority on the range. Range discipline will be enforced by the Range Master and firearms instructors.
- B. General Range Information
1. Weapons
 - a. Each time a weapon is issued or turned in, open the action and/or lock the slide to the rear to ensure the weapon is unloaded. Never force an action open.
 - b. Weapons will not be abused. If a weapon will not function contact a firearms instructor.
 - c. Modifications will not be made to any department issued weapon unless authorized by the lead firearms instructor and the Chief of Police.
 2. Leather Gear
 - a. A complete set of leather gear will be worn during qualification courses unless otherwise specified for the course of fire.
 - b. If a holster or ammo carrier is excessively worn or does not function properly, notify a firearms instructor.
 3. Facilities and Equipment
 - a. Range equipment is not to be abused. Any broken equipment should be reported to an instructor.
 - b. Range will be kept clean at all times. Range equipment will be appropriately cleaned at the end of the day following firearms qualifications.
 - c. Officers who are firing will be responsible for cleaning up their area.

XIV. DEFENSIVE EQUIPMENT

Defensive equipment is an ASP, OC, or ECD. It is not mandatory for officers to carry all three pieces of defensive equipment but they must carry at least one. ACO will carry the ASP Baton only.

- A. ASP Baton
1. The ASP expandable baton is authorized for carrying and use by officers of the Department.
 2. The ASP is issued to all commissioned officers. Uniformed officers who are considered first responders are encouraged to carry the ASP in the

appropriate manner while on duty. Other uniformed officers and non-uniformed officers may carry the ASP at their discretion.

3. Officers are not approved to carry an ASP until successful completion of approved baton training.
4. Officers are responsible for maintaining the ASP baton so that it is safe and reliable for use.
 - a. Damaged, warped or incomplete batons must be reported immediately to the officer's supervisor for repair or replacement.
 - b. No alterations or modifications shall be made to the ASP.
5. On a periodic basis, officers will complete continuing training under the supervision of a certified Baton instructor. This allows officer's to continue demonstrating proficiency. This proficiency demonstration will be documented.

B. Other Striking Devices

1. PR 24's and straight stick batons are authorized for carrying as long the officer can show current certification for their use.

C. Chemical Spray

1. Oleoresin Capsicum spray, otherwise known as OC Spray, is made with the plants from the genus capsicum, and is the only chemical spray authorized for use by the Department. Peppers are the active ingredient in OC Spray which comes in concentrations of 5% and 10%.
2. No officer shall be issued or authorized to carry or use chemical spray until the officer has successfully completed a course of training under the direction of a NMLEA certified instructor. Officers must be specifically authorized to carry chemical spray.
3. The Department recommends for all officers to carry and be certified in the use of OC spray as this provides the officer with an additional tool for officer safety. OC spray is listed as one of the responses in the RCM (Reactive Control Model). However, Officers may carry OC at their discretion.
4. An instructor may revoke an officer's authorization to carry chemical spray if the officer fails to demonstrate proficiency.
5. An officer's authorization to carry chemical spray may be revoked with cause by a supervisor.
6. If an officer's authorization to carry chemical spray is revoked, the instructor will notify the officer's supervisor and the Training Section by memorandum.
7. Only department issued chemical spray may be carried.
8. Officers shall not alter or modify the chemical spray canister or any part of the trigger mechanism in any manner.
9. The OC spray canister shall be inspected on a monthly basis by the officer's supervisor.

D. Electronic Control Device – ECD

1. The ECD is a Conducted Energy Weapon; an electronic incapacitation device. It is a defensive weapon, which is listed in the force continuum as OC spray and empty hands. The ECD functions in two ways;
 - a. It uses compressed nitrogen to project two probes a maximum of 21 feet. An electrical signal is then sent to the probes, via small wires, which disrupts the body's ability to communicate messages

- from the brain to the muscles and causes motor skill dysfunction.
- b. Acts as a touch stun system when brought into contact with a person's body.

The decision to use ECD is based on the same criteria the Officer uses when selecting to employ OC spray, or a baton. The decision must be made dependent on the actions of the subject(s) or the threat facing the Officer(s), and the totality of the circumstances surrounding the incident. In any event, the use of the ECD must be reasonable and necessary. The ECD is not meant to be used in deadly force situations. The ECD must not be used without a firearm back up in those situations where there is a substantial threat towards the Officer(s) or others present.

The ECD provides a force option in which the officer does not have to get dangerously close to a threat before deploying the tool. Using the ECD may greatly reduce the need for other types of physical force by the Officer(s) which could result in a serious or potentially deadly injury to the offender, Officer, or others present.

Any use of an electronic incapacitation device contrary to the direction of this policy can result in the revocation of the Officer's right to use such product and may subject the Officer to disciplinary action.

2. Issuing of the ECD

Department personnel shall only carry and use the ECD approved by the Chief of Police. Shift supervisors should have an ECD in their assigned vehicles at all times. Members may only use Department issued ECD cartridges.

A record will be kept of all ECD's, their serial numbers, and to which Officer they have been issued. In the event that an ECD is returned for repairs or no longer remains the property of the Department, the use history of that particular ECD will be downloaded using the data port access and appropriate software. The use history will be maintained by the ECD instructor for a period of 3 years from the date the ECD was taken out of service. Use histories will be run on each ECD once each year. Any indications of misuse of the device may result in disciplinary action or revocation of the user's certification.

3. Training and Certification

All members who carry and/or use an ECD must first successfully complete a 4 hour ECD familiarization program, to include written practical tests. A mandatory re-certification program will be completed annually. The re-certification will be a minimum of 2 hours.

4. Use of an ECD on Vicious Animals:

The full effect of an ECD on animals is not yet proven. However; field deployments have shown positive results and the ECD has been an effective tool against vicious animals. *Animals have also shown the ability to quickly recover from the effects of the ECD, due to differences in*

their nervous system. As soon as the ECD temporarily disables the animal, Officers should be prepared to act quickly with control devices or restraints. Using the ECD against vicious animals may reduce the need for greater, more injurious force against such animals. Officers should deploy an ECD on an animal when other conventional means to control the animal have been exhausted, or may be unreasonable. The use of an ECD on an animal should be based on the attempt to provide a safer, more humane and less traumatic conclusion to the incident.

Officers should be prepared to use other means of justified force if necessary, and should use conventional means of animal control if feasible. *Conventional means of controlling the animal (e.g.: control sticks, collars, cages) should be on hand, at the scene, if possible, prior to the use of the ECD. Personnel should be prepared to apply conventional controls once the ECD subdues the animal.* An ECD may be deployed on an animal when:

1. A vicious animal is threatening or attacking a citizen, an Officer, or other animal and the use of other force is not reasonable, or may not be desired given the situation.
2. A vicious animal has threatened or attacked a citizen, an Officer, another animal, or has caused a continuing public nuisance and the vicious animal needs to be controlled for reason of public peace or safety, preservation of property, or other legitimate purpose; and the animal poses an active threat to Officers in their efforts to perform their duty. Center mass of the animal should be targeted. Care should be taken that the head and other sensitive areas of the animal are not targeted. It is understood that deployment against vicious animals may be very dynamic in nature and the probes may impact unintentional areas. Procedures for probe removal should take place as outlined in this policy. Personnel will take reasonable measures to insure the animal's welfare is provided for, in the event that probes impact a sensitive area, or it appears the animal's health is in jeopardy. It is generally understood that as long as officers acted appropriately, the animal's owner will be responsible for any medical attention needed by the animal.

5. Use of an ECD on Persons:

The ECD is not a substitute for deadly force and should not be used in those situations. Deployment of the ECD should be backed up immediately with the appropriate amount of force. The ECD may be used in those situations where:

1. A subject is threatening himself, an officer, or other person with physical force and other means of controlling the subject are unreasonable or could cause injury to the officer(s), the subject(s) or others.
2. In cases where officer/subject factors indicate the Officer(s), offender(s) or others would be endangered by the use of physical force.
3. Other means of lesser or equal force have been ineffective and the threat still exists to the officer(s), subject(s) and others.
4. Center mass of the body should be targeted when firing the ECD,

particularly the center mass of the back as clothing tends to be tighter on this part of the body. The head face, and groin area should not be targeted unless the appropriate level of force can be justified.

The ECD will never be used punitively or for purposes of coercion either through normal deployment or use of the drive (touch) stun feature. It is to be used as a way of averting a potentially injurious or dangerous situation. The ECD has an effective range of 13 feet, with a fifteen foot cartridge: and 19 feet with a 21 foot cartridge. Ranges fewer than 3 feet may not provide adequate distribution of the probes to allow the unit to function to its full effectiveness. *Firing the ECD at a subject at a range closer than 3 feet is not dangerous to the subject, however.*

Prior to the deployment of an ECD: the person deploying has the responsibility to visually and physically confirm that the tool selected is in fact an ECD and not a firearm. The deploying person should also notify any on-scene assisting officers that they intend to deploy an ECD.

The ECD has the ability to ignite flammable liquids. It will not be deployed at subjects who have come in contact with flammables or in environments where flammables are obviously present. *Personnel should be especially aware of this when in known meth lab environments.*

Proper consideration and care should be taken when deploying the ECD on subjects who are in an elevated position or in other circumstances where a fall may cause substantial injury or death. Officers must be prepared to justify such a deployment.

6. Duties After Deployment

Once the subject has been restrained or has complied, the ECD should be turned off. An ECD will not be left unattended except in exigent circumstances as when an officer is forced to act alone in taking custody of an immediate threat.

Immediate action should be taken to care for the injured, to apprehend any suspects, and to protect the scene. Medical personnel will be summoned to the scene to assess the subject if other circumstances dictate the subject needs medical treatment. Medical treatment will not be refused for anyone who requests it. Medical personnel will remove probes located in sensitive areas such as the face, neck, groin or breast.

Removal of probes in other areas may be done by Officers; at the discretion of the on scene supervisor. Officers will provide first aid following removal of the probes by applying iodine or alcohol wipes, and band-aids to the probe sites as needed. *Officers should inspect the probes after removal to insure that the entire probe and probe barb has been removed. In the event that a probe or probe barb has broken off is still embedded in a subject's skin; the subject should be provided appropriate medical attention to*

facilitate the removal of the object.

Photographs will be taken of probe impact sites and any other related injuries. Probes that have been removed from skin will be treated as **biohazard** sharps. Involved personnel will attempt to locate and identify any witnesses to the incident.

Officers shall refrain from discussing the incident until the arrival of an on scene supervisor or other administrator. The involved person will brief them of the circumstances surrounding the incident and what action has taken place.

7. Supervisor Responsibilities:

The first supervisor on the scene should ensure that proper care is given to injured officers and/or citizens. He/she should ensure that all responsibilities of the officer have been carried out regarding care for the injured, apprehension of the suspects and protection of the scene.

The supervisor shall notify the Lieutenant and Chief of Police as soon as possible, especially if any traumatic injury has occurred due to the use of force involving the ECD. The Lieutenant shall determine if detectives are to be called to investigate the incident.

A Use of Force Report shall be completed and forwarded to the Lieutenant and Chief of Police.

All other written reports associated with the incident shall also be completed before the end of the shift and forwarded in the same manner.

D. Tactical Rescue Knives

1. Knives will be of the folding variety and shall be stored in a belt pouch or attached by clip. Boot knives or punch knives are not authorized for carry.
2. The blade of the knife will be no longer than four inches.
3. Total length of opened knife will be no more than ten inches.
4. The knife is not to be used as a defensive weapon except in extreme situations.
5. The intent of this policy is that the knife is used to assist officers in freeing victims i.e. cutting of seatbelts.
6. The department will not issue knives.

E. Other:

Under emergency conditions an officer may use whatever weapon is available to protect the life of another or his or her own life.